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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,884	02/26/2002	Vijay Vaidyanathan	2060CIP2CIP	5658
27820	7590	12/07/2006	EXAMINER	
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CARY, NC 27512			PAPER NUMBER	

3621

DATE MAILED: 12/07/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/082,884
Filing Date: February 26, 2002
Appellant(s): VAIDYANATHAN ET AL.

MAILED

DEC 07 2006

GROUP 3600

Benjamin S. Withrow
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 15, 2006 appealing from the Office action mailed February 28, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0023687 A1

Wolfe

1-2003

Geravis (Electronic Rights Management and Digital Identifier Systems, March 1999, The Journal of Electronic Publishing, Volume 4, Issue 3, pp.1-25).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe (US 2003/0023687 A1) in view of Geravis (Electronic Rights Management and Digital Identifier Systems, March 1999, The Journal of Electronic Publishing, Volume 4, Issue 3, pp.1-25).

1 Wolfe discloses a method for enabling electronic delivery of files in a digital marketplace, the method comprising the steps of:

(a) maintaining a data repository for storing information relating to the files available in the digital marketplace, including business rules associated with each file that define electronic transfer of the files during commercial transactions (§18, 64);

(b) in response to a first user requesting to resell a particular file and thereby becoming a reseller, using the data repository to dynamically generate a reseller uniform resource locator (RURL) that uniquely identifies the reseller and the file (column 15, lines 21-25);

(c) providing the RURL to the reseller for posting on a website in order to make the file commercially available to others on the website (§16-27); and

(d) in response to a second user clicking on a link to download the file, retrieving from the data repository the business rules associated with the file identified in the RURL to

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customize the download of the file to the second user and to automatically distribute payments to the reseller (§27, 73-74).

Although Wolfe discloses that any automatic execution can be programmed for processing payments (§83), it does not explicitly disclose automatically distributing payment an owner of the file.

Geravis, however, teaches an electronic rights management and digital identifier system wherein payment can be distributed automatically to content owners through links either directly or through an aggregator of data or third party (i.e., an affiliate or reseller) identifying usage of their files while preserving confidentiality (pp.18-20). In fact, as per applicant's specification on page 6, lines 15-17, applicant gives examples of "content owners" as being "shareware publishers, musicians, artists and designers." Thus, applicant's recited claims are directed to a "content owner" as anyone besides a third party reseller or affiliate (specification page 6, lines 17-18). It would have been obvious to one of ordinary skill in the art at the time of the invention to include automatic disbursement of payment to all parties, including the owner or creator of content for reliable and efficient tracking and reporting of royalties and commissions, as per teachings of Wolfe (§3-4) and Geravis (pp. 17-22).

2 The method of claim 1 wherein step (a) further includes the step of: providing within the business rules a pricing model associated with the file (§21).

3 The method of claim 2 wherein step (a) further includes the step of: storing a record for each file that includes fields for identifying a location of the file and the owner of the file (§45, 53-55).

4 The method of claim 3 wherein step (a) further includes the step of: providing each record with a file ID, a file name, a content owner ID, metafile information, a fingerprint, and the business rules (§43, 74-77, 85-86).

5 The method of claim 4 wherein step (a) further includes the step of: providing the business rules with a redistributable indicator that indicates whether the file is redistributable (§27).

6 The method of claim 4 wherein step (a) further includes the step of: using the fingerprint to uniquely identify each file by content of the file (§52-62).

7 The method of claim 6 wherein step (a) further includes the step of: generating a bitstream ID by calculating binary values in data blocks of the file (§68-74).

8 The method of claim 2 wherein step (d) further includes the step of: (i) charging the second user a retail price for downloading the file (§53).

9 The method of claim 8 wherein step (a) further includes the step of: (i) allowing the content owner to set the retail price and a reseller commission both positively and negatively (§21).

10 The method of claim 2 wherein step (b) further includes the step of: (i) providing the RURL with a web address of the marketplace, the file ID, and the user ID of the reseller (§68-75).

11 The method of claim 10 wherein step (b) further includes the step of: (i) providing the RURL by displaying the RURL and allowing the reseller to copy and paste the RURL on the website (¶45, 65).

12 The method of claim 10 wherein step (b) further includes the step of: (i) providing the RURL via email (¶28, 59, 75).

13 The method of claim 1 further including the step of: implementing the digital marketplace as a website on a network (fig 8 and associated text).

14 The method of claim 1 further including the step of: implementing the digital marketplace as a peer-to-peer network (¶58, 65-72).

Claims 15-28 and 29-42 are respectively directed to a computer readable medium and system of the above recited method claims. Accordingly, claims 15-42 are similarly rejected as detailed above.

Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully

requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

(10) Response to Argument

Claims 1-3, 7-17, 21-31 and 35-42

Appellant argues that the claimed invention is directed to reselling of files and the neither reference provides for such a service (brief p. 8-10). Wolfe is directed to electronic commerce transactions and more specially to a system, method and storage medium for generating a commission link. Wolfe does not limit the invention to merely reselling of files, but rather to any items for sale in an electronic environment. Furthermore, Geravis was merely introduced to demonstrate automatic disbursement to all interested parties.

Appellant makes a distinction between a reseller and affiliate in attempting to overcome the cited references (brief p. 11-12). Although the Appellant may be referring to a link as a reseller URL, Wolfe teaches the same mechanism in tracking and collecting commission and sales revenue as recited in the claimed invention. Furthermore, Appellant's distinction between a frame controlled by a merchant or not is irrelevant as to the in both the invention and Wolfe a link is generated to accomplish the stated provisions. " Note that the affiliate network's linking reference tag (the one after "href=" in the affiliate network's home page link) is a Web site operated by the affiliate network (e.g., affiliate-network.com), rather than the merchant.

Thus, when the consumer is linked to the affiliate network's Web site, a tracking process may be triggered. Next, the affiliate network's Web server redirects the consumer to the merchant's Web site. The merchant's Web site continues the tracking process and reports any

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resulting sales and commissions back to the affiliate network. Once the consumer has been redirected from the affiliate network's Web site to the merchant's Web site, the URL displayed in the consumer's browser corresponds to the merchant's Web site, and not the affiliate network's Web site. In most cases, the consumer is unaware that he or she is first directed to the affiliate network's Web site before going to the merchant's Web site. For example, in the consumer's perspective, he or she visits a Web site, clicks on a link labeled "merchant.com" and is taken directly to the merchant.com site, complete with the merchant.com URL in the browser's address bar [0027]."

Wolfe further teaches that the most basic complication is that many merchants do not offer their affiliates the opportunity to link to individual products [0044]. Therefore, for the purposes of the distinction between an affiliate and reseller as proscribed by Appellant, Wolfe's affiliate can server as both.

Claims 4-6, 18-20 and 32-34

As per claims 4, 18 and 32, Appellant argues that the identity codes in the cited reference is not the same as a file ID, or a content owner ID, metafile information, a fingerprint or business rules (brief p. 13). The limitations referred to by appellant provide identity information for carrying out the intended transaction, i.e., identifying and paying the reseller. The identity codes (identity code, merchant identifier, product identifier, etc.) in the reference perform the same functions exemplified in paragraph [0052, 0074].

As per claims 6, 20 and 43, Appellant contends that the cited reference Wolfe, fails to disclose a fingerprint (brief at 13). The cited reference discloses various authentication

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techniques, including login and password authentication that encompass character sequences combined with digital key encryption or digital signature validation [0053].

As per claims 5, 19 and 33, Appellant concedes that the cited reference discloses the process of linking to the affiliate network, but argues, “there is nothing in the passage that indicates the file is redistributable (brief at 14).” In fact, as indicated in the rejection in paragraph 0027, the fact that the consumer is “redirected to the affiliate network’s site.” Appellant merely states that “redirection is not the same as redistribution,” however fails to distinguish any functional difference thereof.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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